TITLE 405 OFFICE OF THE SECRETARY OF FAMILY AND SOCIAL SERVICES

Economic Impact Statement
LSA Document #11-318

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

IC 4-22-2.1-5(a) provides that an agency that intends to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses must prepare a statement that describes the annual economic impact of the rule on small businesses after the rule is fully implemented as described in IC 4-22-2.1-5(b).

LSA Document #11-318 amends 405 IAC 1-1-2 to replace five years as the maximum amount of time a recipient can be placed on the restricted card program with an initial two year restriction period subject to biennial review and possible continuation of restricted benefits for subsequent two year periods. Comments and questions may be addressed to the Small Business Regulatory Coordinator for this rule.

Economic Impact on Small Businesses

1. Estimated Number of Small Businesses Subject to this Rule:

IC 5-28-2-6 defines a small business as a business entity that satisfies the following requirements:

(1) On at least fifty percent (50%) of the working days of the business entity occurring during the preceding calendar year, the business entity employed not more than one hundred fifty (150) employees.

(2) The majority of the employees of the business entity work in Indiana.

The Office of Medicaid Policy and Planning (OMPP) estimates that the proposed rule will impose a requirement on a small number of Medicaid certified hospital providers, pharmacies, and physicians. The OMPP estimates that seven Medicaid certified hospitals, 400 pharmacies, and a small number of small business physicians meet the above definition of a small business. Because the proposed rule will likely impose requirements on small businesses, the OMPP is required to prepare a report describing the economic impact of the rule in accordance with IC 4-22-2.1-5.

2. Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur:

The OMPP estimates that the proposed rule change will not impose administrative costs on small businesses above what is already required. This is because the Right Choices Program (RCP) is already implemented throughout Indiana and any small business provider already has a working knowledge of the program and established billing processes to receive reimbursement. Providers will continue submitting claims, and seeing recipients, subject to the RCP requirements.

The proposed elimination of the five year cap may result in some members receiving treatment at a small business for a greater period of time. However, the OMPP does not expect this change to increase the number of members receiving care from a small business provider to the extent that it would impose significant administrative, record keeping, and reporting costs on that business.

3. Estimated Total Annual Economic Impact on Small Businesses to Comply:

The OMPP estimates that any negative economic impact of the proposed rule change will be de minimis. As stated above, small businesses are already complying with requirements and procedures under the current RCP. The proposed rule will not require any additional administrative expenses on small business providers.

In fact, the OMPP expects that the proposed rule will have a positive economic impact on the small business community. The proposed rule, by requiring Medicaid members to do all of their business in one place, streamlines the existing process and nourishes small business. In general, it is easier for a provider to scan the patient's profile for the federally required Prospective Drug Utilization Review requirements such as drug-drug interactions because all of their prescriptions are in one system. Moreover, the proposed rule simplifies the phone calls and faxes for medications and prior authorizations between a physician's practice and the pharmacy if all the prescriptions are filled at one location.

It is possible that the proposed rule could increase the number of enrollees visiting a small business practice, but such an outcome is an advantage for small businesses because it increases their market share in the Medicaid business. Moreover, the proposed rule, by limiting a Medicaid's free choice of providers, gives small business physicians and pharmacies an economic advantage over commercial practices or pharmacies. RCP members who select independent pharmacies bring needed business to independents and they receive higher quality related services (like counseling).

4. Justification Statement of Requirement or Cost:

The proposed rule is necessary to maximize the benefits of the RCP through continued care and managerial oversight. The purpose of the RCP is to provide a safeguard against the chronic overuse of services (prescription drugs) by Medicaid consumers at the taxpayer's expense. The twin function of the RCP is to provide oversight

and to manage the care of Medicaid consumers who may have chronic medical conditions.

The current five year cap frustrates the program's goals by prematurely discharging RCP enrollees who have not shown the willingness or capability to use Medicaid services as intended. Under the current system, a Medicaid member must be discharged after five years and may again be placed on the RCP if he or she again overuses Medicaid services. Although the overuser is subject to being on the program again, the OMPP will not take such action until it has sufficient evidence of the member's overuse. This result comes at the taxpayer expense and wastes important government employee time spent reenrolling these overusers. The proposed rule, by eliminating the five year cap, streamlines the program and eliminates wasteful spending. Under the proposed rule, such individuals would remain on the RCP and benefit from the oversight and care of a single provider until it can be determined that the program is no longer necessary.

5. Regulatory Flexibility Analysis:

The OMPP has determined that there are no other less stringent compliance or reporting requirements, other than placing a member on RCP and requiring the member to select a primary care doctor, a pharmacy, and a hospital for their main health care needs. It is consistent with other payers, such as commercial insurance, to require member to choose a primary doctor for coordination of care.

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